Court No.3

Criminal Revision No. 43 of 2001
(Old No. 918/1987)

Kunwar Singh ……Revisionist

Versus

State ……Respondent.

Hon'ble Irshad Hussain, J.

This is a criminal revision against the judgment and order dated 1.6.1987 passed by the Sessions Judge, Nainital dismissing the criminal appeal no. 221 of 1984 whereby the judgment order dated 23.2.198 passed by the then learned Munsif Magistrate, Haldwani convicting the revisionist under Section 279 and 304-A I.P.C. and sentencing him to undergo R.I. for a period of three months and one year respectively and also to pay fine of Rs. 1,000/- was upheld.

2. Heard Sri T. A. Khan learned counsel for the revisionist and Sri Raman Shah, learned AGA for the State and perused the record.

3. Learned counsel for the revisionist did not dispute the concurrent findings of the learned Magistrate and the appellate court in regard to the crime punishable under Sections 279 and 304-A IPC being committed by the revisionist and the same being found established by the evidence on record but merely argued that a lenient view may be taken on the point of sentence considering that the occurrence took place way back in the year 1982 and the revisionist had undergone some period of imprisonment before he was on bail after being convicted by the Trial Court and later on the appeal being dismissed by the Sessions Judge, Nainital. The revisionist had been out of confinement for more than 20 years and no useful purpose will be served if the is again taken into custody and is sent to jail to serve out the remaining part of the sentence. Considering the totality of the circumstances of the case and the long period which has elapsed since the occurrence took place there appear force in the submission of the learned counsel for the revisionist and therefore the revision is fit to be allowed to that extent only.

4. The revision is partly allowed. The conviction of the revisionist under Sections 279 and 304-A I.P.C. as recorded by the learned Magistrate, Haldwani

per judgment and order dated 23.2.1984 and affirmed by the appellate court as mentioned above is hereby upheld. The sentence awarded is modified to the period of sentence already undergone together with fine of Rs. 1,000/- as awarded by the learned Magistrate. The fine has been deposited by the revisionist as is evidence from the copy of the questionnaire shown at the bar by the learned counsel. It is also to be noted that when the revision was admitted prayer for stay of realization of fine was rejected meaning thereby that the revisionist has deposited the fine awarded against him.

(Irshad Hussain, J.)

Dated 14.10.2003
Rawat